



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1355

July 1, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

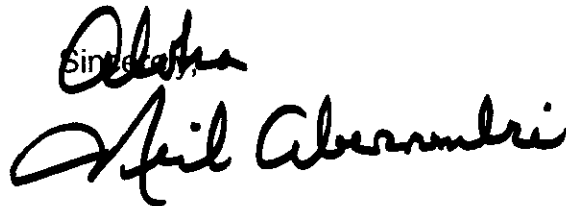
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 1, 2013, the following bill was signed into law:

SB1340 SD2 HD2 CD1

RELATING TO FOSTER CARE
ACT 252 (13)


Signed,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO FOSTER CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the Fostering
2 Connections to Success and Increasing Adoptions Act of 2008
3 (P.L. 110-351) allows states to claim federal reimbursement for
4 the costs of caring for and supervising Title IV-E eligible
5 foster youth until their twenty-first birthday.

6 Compared to their peers, young people who have been in the
7 foster care system are more likely to become homeless and
8 unemployed when they age out of foster care. They are less
9 likely to graduate from high school or attend post-secondary
10 education. They are more likely to have physical,
11 developmental, and mental health challenges. Unlike their
12 peers, most foster care youths lose their support system when
13 they reach the age of eighteen years and are discharged from
14 state custody.

15 Evidence from several studies shows young people who
16 continue to receive foster care services until age twenty-one
17 have better outcomes when they leave foster care compared to
18 those who left at age eighteen. These studies have shown an



1 increase in positive outcomes in educational achievement and
2 employment, contributing to a more stable workforce and
3 increased lifetime earnings. Studies also show a decrease in
4 negative outcomes, including homelessness, dependency on public
5 assistance, drug dependency, and criminal activities.

6 The legislature finds that this is not surprising,
7 considering that research shows the brain is not fully developed
8 until the early to mid-twenties, suggesting that instead of
9 immediate transition from adolescence to adulthood, a young
10 person experiences gradual development during a longer phase
11 called emerging adulthood. Transitioning youth need extra
12 support as they accomplish developmental milestones and progress
13 toward full-fledged adulthood.

14 The legislature further finds that extending independent
15 living services, case and permanency planning, placement, and
16 judicial oversight to age twenty-one benefits young people who
17 urgently need continued support and services. Extended care can
18 provide safe and stable housing for young people who have not
19 achieved permanence by age eighteen and are not ready to be on
20 their own.

21 Moreover, extended care provides young people with access
22 to additional child welfare resources that can be used to help a



1 young person continue to build a network of support and
2 permanent relationships. To ensure young adults never leave
3 care without a permanently committed, caring adult in their
4 life, it is vital that permanency planning continue, with the
5 young adult leading the effort. This ongoing permanency
6 planning for non-minor dependents over the age of eighteen
7 should also provide young people with access to competent legal
8 advocates and meaningful court reviews.

9 Accordingly, the purpose of this Act is to add a new part
10 to chapter 346, Hawaii Revised Statutes, to establish the young
11 adult voluntary foster care program to care for and supervise
12 eligible foster youth until their twenty-first birthday.

13 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
14 amended by adding a new part to be appropriately designated and
15 to read as follows:

16 **"PART . YOUNG ADULT VOLUNTARY FOSTER CARE PROGRAM**

17 **§346-A Purpose.** The purpose of this part is to establish
18 the young adult voluntary foster care program, to care for and
19 assist eligible foster youth until their twenty-first birthday.
20 The young adult voluntary foster care program will support
21 former foster youth in the transition to adulthood and in
22 becoming independent and self-sufficient.



1 §346-B Definitions. As used in this part, unless the
2 context clearly indicates otherwise:

3 "Case plan" means a plan developed by the department, in
4 consultation with the young adult, as developmentally
5 appropriate, containing a written description of the programs
6 and services that will help the young adult transition from
7 foster care to independent living.

8 "Court" means one of the family courts established pursuant
9 to chapter 571.

10 "Department" means the department of human services and its
11 authorized representatives.

12 "Foster custody" means the legal status created when the
13 department places a child outside of the family home with the
14 agreement of the legal custodian or pursuant to court order as
15 set forth in chapter 587A.

16 "Party" means the department or the young adult who is
17 subject to a proceeding brought under this part and may include
18 any other person whose participation the court finds is in the
19 best interest of the young adult.

20 "Permanent custody" means the legal status created by order
21 of the court after the termination of parental rights as set
22 forth in chapter 587A.



1 "Young adult" means a person who has attained the age of
2 eighteen or older, but is less than twenty-one years of age.

3 **§346-C Rights of the young adult.** (a) Young adults have
4 a right to meaningful court reviews, including the right to:

5 (1) Receive notice of any court hearings and reviews and
6 any other case related proceedings and meetings;

7 (2) Be involved in the development of a personalized case
8 plan;

9 (3) Be present at all court hearings and reviews and be
10 able to address the court during those hearings;
11 provided that young adults may waive their right to be
12 present at the court hearings and reviews or may
13 request to participate in the court hearings and
14 reviews by phone; and

15 (4) Request competent legal counsel.

16 (b) Nothing in this part shall be construed to abrogate
17 any other rights that a person who has attained eighteen years
18 of age, may have as an adult under state law.

19 **§346-D Jurisdiction.** The family courts established
20 pursuant to chapter 571 shall have exclusive jurisdiction over
21 proceedings brought under this part.



1 §346-E Eligibility. A young adult may continue to receive
2 services under this part if the young adult meets the following
3 criteria:

- 4 (1) The young adult was:
 - 5 (A) Under the permanent or foster custody of the
 - 6 department at the time the young adult attained
 - 7 the age of eighteen;
 - 8 (B) A child who was placed in guardianship after
 - 9 attaining the age of sixteen; or
 - 10 (C) A child who was adopted after attaining the age
 - 11 of sixteen;
- 12 (2) The young adult voluntarily consents to participate in
- 13 the young adult voluntary foster care program;
- 14 (3) The court finds that exercising jurisdiction under
- 15 this part is in the young adult's best interest; and
- 16 (4) The young adult is:
 - 17 (A) Completing secondary education or a program
 - 18 leading to an equivalent credential;
 - 19 (B) Enrolled in an institution that provides post-
 - 20 secondary or vocational education;
 - 21 (C) Participating in a program or activity designed
 - 22 to promote or remove barriers to employment;



- 1 (D) Employed for at least eighty hours per month; or
- 2 (E) Incapable of doing any of the activities
- 3 described in subparagraphs (A) to (D) due to a
- 4 medical condition, which incapability is
- 5 supported by regularly updated information in the
- 6 case plan of the young adult.

7 **§346-F Voluntary care agreement.** If a young adult is no
 8 longer under jurisdiction pursuant to chapter 587A but chooses
 9 to participate in the young adult voluntary foster care program
 10 and meets the eligibility criteria set forth in section 346-E,
 11 the department and the young adult shall enter into a voluntary
 12 care agreement that shall include, at a minimum, the following:

- 13 (1) The obligation for the young adult to continue to meet
- 14 the conditions for eligibility described in section
- 15 346-E for the duration of the voluntary care
- 16 agreement;
- 17 (2) The young adult's right to terminate the voluntary
- 18 care agreement at any time; and
- 19 (3) The voluntary nature of the young adult's
- 20 participation in the young adult voluntary foster care
- 21 program.



1 **§346-G Provision of extended foster care services.** As
2 soon as the department determines that a young adult is eligible
3 under section 346-E and the young adult signs the voluntary care
4 agreement as described in section 346-F, prior to the filing of
5 the petition invoking the jurisdiction of the court or the
6 court's determination of jurisdiction pursuant to section 346-H,
7 the department may provide extended foster care services to the
8 young adult.

9 **§346-H Petition; venue.** (a) Within thirty days after the
10 voluntary care agreement is signed, the department shall file
11 with the court in the county where the young adult resides a
12 petition invoking the jurisdiction of the court under this part,
13 which shall contain:

- 14 (1) The young adult's name, date of birth, and current
15 address;
- 16 (2) A statement of facts that supports the eligibility of
17 the young adult for foster care services that includes
18 the following:
 - 19 (A) The reasonable efforts made to achieve permanency
20 for the young adult; and
 - 21 (B) The reasons why it is in the best interest of the
22 young adult to extend foster care services; and



1 (3) A copy of the signed voluntary care agreement.

2 (b) Upon the filing of the petition, the court shall open
3 a young adult voluntary foster care case for the purpose of
4 determining whether extending foster care services is in the
5 young adult's best interests. The court shall conduct a hearing
6 and make its determination no later than fifteen days after the
7 filing of the petition.

8 (c) The court shall set a periodic review to be held
9 within one hundred eighty days after the signing of the
10 voluntary care agreement.

11 **§346-I Notice of hearings and reviews.** Notice of hearings
12 and reviews shall be provided to the parties; provided that no
13 further notice is required for any party who was given actual
14 notice of a hearing or review while present in court. Notice of
15 hearings or reviews shall be served no less than forty-eight
16 hours before the scheduled hearing, or as otherwise determined
17 by the court.

18 **§346-J Case plan; reports to be submitted by the**
19 **department.** (a) A case plan shall:

20 (1) Establish goals for the young adult, including those
21 pertaining to education; health; therapy; counseling;
22 a relationship with the young adult's birth family,



1 including visits; cultural connections; independent
2 living; and transition plans;

3 (2) Describe services needed to assist the young adult to
4 achieve the goals set forth in paragraph (1); and

5 (3) Describe the methods for achieving the goals and
6 services set forth in paragraphs (1) and (2).

7 (b) The department shall prepare a report to the court,
8 developed in collaboration with the young adult as
9 developmentally appropriate, describing:

10 (1) The young adult's progress toward achieving the goals
11 of the case plan;

12 (2) Proposed revisions to the goals of the case plan and
13 reasons for the revisions; and

14 (3) Proposed revisions to the methods for achieving the
15 goals of the case plan and the reasons for the
16 revisions.

17 (c) The report shall be submitted to the court seven days
18 prior to a scheduled periodic review hearing date and a copy
19 shall be provided to the young adult.

20 **§346-K Court proceedings.** (a) The court shall conduct
21 all proceedings under this part without a jury.



1 (b) The general public shall be excluded from these
2 proceedings. Only parties found by the court to have a direct
3 interest in the case shall be admitted to the proceeding.

4 (c) Except with respect to the department or the young
5 adult, the court may limit a party's right to participate in any
6 proceeding if the court deems the limitation to be consistent
7 with the best interests of the young adult.

8 (d) All documents, reports, and records under this part
9 shall be confidential and shall not be released to any third
10 party without the consent of the young adult or the consent of
11 the court for good cause shown.

12 **§346-L Court-appointed attorneys.** The court may appoint
13 an attorney sua sponte or at the request of any party to
14 represent a young adult who is eligible under section 346-E and
15 has signed the voluntary care agreement as described in section
16 346-G if it is deemed by the court to be in the young adult's
17 best interest. Attorneys who are appointed by the court to
18 represent a qualifying young adult may be paid by the court,
19 unless the young adult for whom counsel is appointed has an
20 independent estate sufficient to pay fees and costs.

21 **§346-M Periodic review.** (a) Periodic judicial reviews
22 shall occur not less than once every one hundred eighty days



1 after the signing of the voluntary care agreement and may be
2 conducted either by court hearing or court review.

3 (b) At the periodic review, the court shall issue the
4 following findings:

5 (1) Whether the young adult continues to meet the
6 eligibility requirements set forth in section 346-E;

7 (2) Whether the young adult continues to comply with the
8 case plan developed in collaboration between the
9 department and the young adult, and the
10 appropriateness of the case plan; and

11 (3) The young adult's progress toward achieving
12 independence.

13 **§346-N Termination of jurisdiction.** Jurisdiction under
14 this part shall terminate when:

15 (1) The young adult has reached the age of twenty-one
16 years;

17 (2) The young adult chooses to terminate the voluntary
18 care agreement and stop receiving extended foster care
19 services if the young adult:

20 (A) Has voluntarily signed a document attesting to
21 the fact that the young adult no longer consents
22 to the court's jurisdiction;



1 (B) Has been informed in writing of the effects of
2 terminating voluntary foster care early; and

3 (C) Has been informed in writing of the option to
4 reestablish jurisdiction before reaching age
5 twenty-one and the procedures to do so; or

6 (3) After a court finds that:

7 (A) The young adult no longer meets the eligibility
8 requirements as set forth in section 346-E; or

9 (B) Despite the fact that the department has made
10 ongoing reasonable efforts to provide the young
11 adult with services, the young adult is in
12 material noncompliance with the case plan.

13 **§346-O Reestablishing jurisdiction.** A young adult who was
14 previously under the jurisdiction of the court under this part
15 and who was terminated from the young adult voluntary foster
16 care program may reestablish jurisdiction by signing a new
17 voluntary foster care agreement at which time the department and
18 the court shall proceed pursuant to section 346-H.

19 **§346-P Liability of the department.** The department or any
20 of its employees who provide services under this part shall not
21 be liable to a third person:

22 (1) For any acts of the young adult; and

1 (2) For injury to the young adult resulting from the
2 negligence or act of a third person providing services
3 or housing to the young adult.

4 §346-Q Reporting requirement. The department shall submit
5 an annual report to the legislature, no later than twenty days
6 prior to the convening of each regular session, on the status,
7 efficacy, and any other relevant information regarding the young
8 adult voluntary foster care program established by this part."

9 SECTION 3. In codifying the new sections added to chapter
10 346, Hawaii Revised Statutes, by section 2 of this Act, the
11 revisor of statutes shall substitute appropriate section numbers
12 for the letters used in the designations of, and references to,
13 those new sections in this Act.

14 SECTION 4. This Act shall take effect on July 1, 2014.

APPROVED this 1 day of JUL, 2013



GOVERNOR OF THE STATE OF HAWAII